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SUBJECT: Court Decides Shut-Down of Map Ta Phut Industrial Projects  
Will Stand

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11. (SBU) Summary: The Supreme Administrative Court of Thailand ruled on December 2 to maintain a suspension order for 65 new or expansion projects in Thailand's largest and premier Map Ta Phut Industrial Estate. Only 11 of the 76 projects suspended in the September 29 decision by a lower court are allowed to proceed, as it was determined that they would not have a significant impact on the local environment. Environmentalists applaud the decision as a victory for civil society, while the business community is very disappointed and concerned over the possible financial repercussions and the long term effect on the investment climate. End Summary.

12. (SBU) Comment: Both the foreign and Thai companies affected, including Dow Chemical, which has a multi-billion dollar joint venture petrochemical project on the list of suspended projects, are particularly frustrated because the guidelines do not yet exist that would enable them to comply with the constitutional mandates for environmental and health impact assessments. The Ambassador has weighed in with the Prime Minister and other top leaders to urge quick remedy. Editorial reaction to the court's judgment has been diverse, highlighting its importance to communities, environmentalists, investors, and the government. As the court's ruling goes against some of the largest and most powerful business interests in the country, the most important development may be the strengthening of the independence of the judiciary. End Comment.

13. (U) On December 2, the Supreme Administrative Court of Thailand upheld, for the most part, the September 29 injunction issued by the Central Administrative Court (Ref C). The September 29 injunction suspended 76 projects in the Map Ta Phut industrial area. The December 2 Supreme Administrative Court ruling removed 11 of the projects from the list of suspended projects. The court found that the eleven projects would not have a substantial impact on the environment and quality of life of the local people. The other 65 projects must suspend construction pending a full hearing into whether they comply with the requirements in the constitution. (Note: As a technical matter, the court ruling cannot directly halt the projects. The Ministry of Industry must issue that order, which is expected within a week.)

Ruling Shakes Business Confidence

14. (U) In an erroneous anticipation of a positive ruling for industrial firms, stocks rose 3 percent on December 1. Following the ruling in the afternoon of December 2, the SET index fell 2.32 percent. Companies with suspended projects took a hit; shares of Siam Cement, a joint venture partner of Dow Chemical, were down more than five percent. Shares of PTT Group companies, a major investor

in the Map Ta Phut area, were down at the close of day on December 2: PTT Plc. down 5.06 percent, PTT Exploration and Production down 4.69 percent, PTT Aromatics and Refining down 3.77 percent, and PTT Chemicals down 5 percent. While three projects of the group of companies were among the eleven allowed to continue (one each from PTT Aromatics and Refining, PTT Plc., and PTT Chemical), 22 other projects must halt work.

15. (U) Analysts warn that the ruling could dampen Thailand's investment climate. The Joint Foreign Chambers of Commerce in Thailand have long expressed their concern that the suspension of the projects will have significant implications for foreign and Thai investor confidence in Thailand's investment regime and will alter the perception of the investment environment. Working with the American Chamber, the Joint Chamber is preparing to issue a new statement to urge quick remedial action. In addition, economists warn that long delays for Map Ta Phut projects could reduce the GDP growth by as much as a half of a percent from the forecasted 3 percent growth in 2010.

#### Environmentalists Praise Verdict

16. (SBU) Environmental activists applauded the court ruling, saying that it was a message that the law must be followed. Srisuwan Janya, president of the Stop Global Warming Association, which filed lawsuits against eight government agencies that lead to the injunction against the 76 projects, publicly stated that this verdict has encouraged his organization to pursue more battles against the government's negligence - he plans to make a move against 181 industrial projects located in other parts of the country. Sutthi Atchaisai, a coordinator of the Eastern Peoples' Network, told us that he is quite happy with the ruling and that he will continue to monitor the situation to ensure that the Constitution is followed.

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#### Concerns of Major Investors

17. (SBU) Dow Chemical's multi-billion dollar petrochemical expansion was among the 65 which were affected - even though the company's environmental standards exceed those required under the law. On December 3, the company told the Commercial Counselor that if they must suspend their expansion plans now well underway, 6000 workers will be let go and 4000 new workers would not be offered employment.

Given the potential losses it faces, Dow may be forced to file a claim against the government for damages. (Note: Two environmental upgrade projects of Star Petroleum and Refinery Company, a Chevron subsidiary, were among those allowed to proceed. End Note.)

18. (U) The Federation of Thai industries led a large delegation to meet with the Prime Minister on December 3. The group expressed concern that billions of baht in potential investment could now move outside of Thailand given the uncertainties that remain for new investment in Thailand. The business representatives also asked for clarification on procedures that would bring projects into compliance with the Constitution, allowing the projects to proceed.

19. (SBU) The Ambassador has already raised concern about the Map Ta Put dilemma in meetings with Prime Minister Abhisit, Deputy Minister Kobsak, the Transport Minister and the Thailand Trade Representative, stressing the need to protect the large U.S. investments by putting in place the procedures for companies to establish compliance with environmental and health standards.

110. (SBU) In a December 3 discussion with the Econ Counselor, the Japanese Economic Counselor expressed concern that this decision could badly affect several Japanese companies. He said that his embassy is seeking a meeting with Deputy Prime Minister Korbsak to discuss the situation and he hopes that the Thai government will work quickly to mitigate the damage resulting from the court ruling.

Given the role of Solvay as one of the joint venture partners for Dow, the Belgian Ambassador has raised concerns about the situation to the Thailand Trade Representative, the Ministry of Finance and the Ministry of Foreign Affairs. The EU has also been actively

lobbying on behalf of other European firms.

#### RTG Reactions Mixed

11. (U) Immediately following the court's ruling, the government pledged to do what it can to allow stalled projects to move forward as soon as possible. Prime Minister Abhisit instructed cabinet ministers to assess the potential damage and to find ways to ease the impact of the decision. Abhisit has also urged those working to solve problems at the industrial estate to speed up their efforts. In a press event late December 3, however, Abhisit stressed that the ruling represents an important lesson in the role of the courts in society, and that industrial development cannot continue without taking into account environmental and social sustainability.

12. (SBU) Prior to the court decision, the Government established a four-party panel to seek a compromise on how to balance industrial development with local community interests. On November 19, the committee, chaired by former Prime Minister Anand Panyarachun, held its first meeting. Since the ruling, Anand announced that he would speed up the work of the committee. Membership of the committee includes environmentalists, community activists, representatives from the business sector, and government officials. Sutthi Atchaisai, coordinator of the Eastern Peoples' Network and a member of the committee, is very pleased with the set-up of the committee and told us that he is confident that the committee will be successful.

JOHN